

REMARKS

I. Status of the Claims

Without prejudice or disclaimer, claims 2, 6, 7, and 20 have been cancelled, and claims 1, 8, 12, 17, 59, 60, 63, and 64 have been amended. Exemplary support for those amendments can be found in the specification and claims as originally filed. Accordingly, no new matter has been added herein.

Claims 1, 3-5, 8-19, and 21-64 are pending and subject to examination upon entry of this paper.

II. Double Patenting

The Office maintained nonstatutory obviousness-type double patenting rejection of claims 1-64 as allegedly "being unpatentable over claims 1-130 of U.S. Patent No. 681177" to Ferrari et al. ("*Ferrari*"). Office Action at pages 2-4. Applicants respectfully disagree for the reasons of record..

Solely to advance prosecution of this application, and without in any way conceding to the propriety of the rejection, Applicants have amended claim 1 to incorporate some of the elements of original claim 7. To the extent that the Office might consider rejecting the current claims, as amended, on the ground of nonstatutory obviousness-type double patenting as allegedly "being unpatentable over claims 1-130 of *Ferrari*," Applicants respectfully submit the following remarks without further addressing the Office's positions as listed in the Office Action.

As agreed by the Office, in making a double patenting rejection, the comparison must be done between the claims of an issued patent and the claims of a pending application. Here, *Ferrari*'s claims do not teach or suggest formula (IV) of current claims

as amended. Instead, *Ferrari* describes that compounds of formula (A), (I), (II) and (III) in claims 39, 43, 47, and 48, respectively, can be used in the second composition. Those formulae are patentably distinct from the formula (IV) encompassed in current claims as amended, because those formulae described by *Ferrari* represent either phenyl silicones or fluorosilicones, whereas the formula (IV) of the current claims as amended represents compounds that are neither phenyl silicones nor fluorosilicones.

Accordingly, Applicants respectfully request that the rejection be withdrawn.

IV. Claim Rejections - 35 USC § 102

The Office also maintained the rejection of claims 1-64 under 35 U.S.C. § 102 (e) as allegedly "being anticipated by" U.S. Application Publication No. 2003/0039621 to Arnaud et al. ("*Arnaud*") or over U.S. Patent No. 6,811,770 to Ferrari et al. ("*Ferrari*"). Office Action at 4-8. Applicants respectfully disagree for the reasons of record.

To the extent that the Office might consider rejecting the current claims, as amended, as allegedly being anticipated by *Ferrari*, or *Arnaud*, Applicants respectfully submit the following remarks without further addressing the Office's positions as listed in the Office Action.

Ferrari does not teach or suggest formula (IV) of the current claims as amended. Instead, *Ferrari* teaches that the compounds of formula (A), see col. 15, lines 8-25; of formula (I), see col. 16, lines 25-35; of formula (II), see col. 17, lines 8-15; and of formula (III), see col. 17, lines 35-37, can be used in the second composition. Those compounds, however, are either fluorosilicones or phenyl silicones, whereas the current claims as amended require a silicone of formula (IV) that is neither phenylsilicone nor fluorosilicone.

Similarly, *Arnaud* does not teach or suggest formula (IV) of the current claims as amended. Instead, *Arnaud* teaches that compounds of formula (I), see paragraph [0169]; of formula (A), see paragraph [0189]; and of formula ((III)), see paragraph [0199], can be used in the second composition. Those compounds, however, differ from the silicones of formula (IV) in the current claims as amended, because they are either phenylsilicones or fluorosilicones that do not fall within the scope of formula (IV) of the current claims as amended.

As such, neither *Ferrari* nor *Arnaud* anticipates the current claims, as amended. Applicants respectfully request that the rejections be withdrawn.

CONCLUSION


In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and timely allowance of the pending claims. If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, she is respectfully invited to contact Applicants' undersigned counsel at (650) 849-6649.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 12, 2009

By: 

Wen Li
Reg. No. 62,185